

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
GREENVILLE DIVISION

James Corey Frazier, # 215421,)	C/A No.: 8:07-cv-1666-GRA-BHH
)	
Petitioner,)	
)	
v.)	ORDER
)	(Written Opinion)
Stan Burt, Warden of Leiber Correctional Institution,)	
)	
Respondent.)	
)	

On April 14, 2008, Magistrate Judge Hendricks issued a Report and Recommendation in the above-captioned matter, pursuant to 28 U.S.C. § 636(b)(1)(B) and District of South Carolina Local Rule 73.02(B)(2)(c). The magistrate judge recommends that this Court grant the respondent's motion for summary judgment and dismiss the immediate petition because, under the Anti-Terrorism and Effective Death Penalty Act of 1996 (AEDPA), the petitioner filed his 28 U.S.C. § 2254 habeas corpus petition late. As the time period for the petitioner to object to the magistrate's Report has passed, this matter is now ready for disposition.

Petitioner brings this claim *pro se*. This Court is required to construe *pro se* pleadings liberally. Such pleadings are held to a less stringent standard than those drafted by attorneys. *See Gordon v. Leeke*, 574 F.2d 1147, 1151 (4th Cir. 1978). This Court is charged with liberally construing a pleading filed by a *pro se* litigant to

allow for the development of a potentially meritorious claim. *See Boag v. MacDougall*, 454 U.S. 364, 365 (1982).

The magistrate makes only a recommendation to this Court. The recommendation has no presumptive weight, and responsibility for making a final determination remains with this Court. *Mathews v. Weber*, 423 U.S. 261, 270-71 (1976). This Court is charged with making a *de novo* determination of those portions of the Report and Recommendation to which specific objection is made, and this Court may "accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate." 28 U.S.C. § 636(b)(1). This Court may also "receive further evidence or recommit the matter to the magistrate with instructions." *Id.* In the absence of specific objections to the Report and Recommendation, this Court is not required to give any explanation for adopting the recommendation. *Camby v. Davis*, 718 F.2d 198 (4th. Cir. 1983). Petitioner did not file any objections.

After a thorough review of the magistrate's Report and Recommendation, the pleadings, and relevant case law, this Court finds Magistrate Judge Hendricks applied sound legal principles to the facts of this case. Therefore, this Court adopts the Report and Recommendation in its entirety.

IT IS THEREFORE SO ORDERED THAT the respondent's motion for summary judgment be GRANTED and the habeas petition be DISMISSED with prejudice.

IT IS SO ORDERED.

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G. ROSS ANDERSON, JR.
UNITED STATES DISTRICT JUDGE

May 15, 2008
Anderson, South Carolina

NOTICE OF RIGHT TO APPEAL

Pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure, Petitioner has the right to appeal this Order within thirty (30) days from the date of its entry. Failure to meet this deadline, as modified by Rule 4 of the Federal Rules of Appellate Procedure, **will waive the right to appeal.**